

TWENTY-SIXTH YEAR.

SALT LAKE CITY, UTAH, SUNDAY MAY 17, 1896.

NUMBER 207

MRS. TOLHURST WINS.

Secures a Decree of Divorce and Substantial Alimony.

MARY J. LEWIS FILES SUIT

FOR DIVORCE ON THE GROUNDS OF EXTREME CRUELTY.

Judge Street Refuses to Continue in Force, Pending Appeal, the Injunction Preventing Payment for Sewer Extras. Axel Olsen Sues the Union Pacific For \$1,500 Damages—Short Rulings, Probate Orders and Court Notes.

The divorce suit of Thomas F. Tolhurst against Elizabeth Jones Tolhurst, which was partly heard before Judge Young on April 11, was resumed yesterday before his honor, and ended in a decree and alimony being awarded to Mrs. Tolhurst on her cross-complaint.

The allegations of the complaint were that the marriage took place in this city on October 18, 1894, and that on November 10 of the same year Mrs. Tolhurst deserted her husband. The defendant filed an answer, denying the assertion, and a cross-complaint, alleging that her husband had treated her with great cruelty, neglected her when sick and refused her proper care, and also failed to support her. She prayed for a divorce and alimony. The testimony at the hearing on April 11 was quite racy in parts and was reported in The Herald of the following day.

Yesterday the proceedings were somewhat tame, the parties apparently having come to an understanding on all points except the amount of alimony to be awarded to Mrs. Tolhurst. Testimony as to the means of the plaintiff was introduced, and his honor finally granted Mrs. Tolhurst the decree, awarding her alimony in the sum of \$500, payable half at once and half in sixty days, and a further allowance of \$12 a month, the plaintiff to pay the costs of the suit.

Richards & Richards were the attorneys for the plaintiff, and Powers, Straup & Lippman for the defendant.

ALLEGED IN MRS. LEWIS' COMPLAINT FOR DIVORCE.

Mary J. Lewis has entered suit for divorce from David Lewis, alleging that the marriage took place on September 5, 1879, and that ever since the nuptial knot was tied her husband has treated her in a cruel and inhuman manner, particularly in the month of June, 1895, at Sandy, when it is alleged he cruelly attacked her and compelled her to leave the house to save her life. In January, it is alleged, he struck her a violent blow on the side of the head, dragged her from the house by the hair of the head and threw her violently to the floor of the porch, where for several minutes she lay unconscious. On May 14, 1896, it is alleged, he again attacked her, saying he would "kill her if he hung tomorrow." The defendant, it is further alleged, has a violent and uncontrollable temper and frequently flies into a fit of passion and becomes very abusive.

Plaintiff prays for a decree of divorce, for a restraining order preventing the defendant from disposing of his property pending the suit, for a reasonable amount of alimony and the custody of the four minor children of the marriage.

H. A. Smith and C. M. Nielsen are the attorneys for the plaintiff.

SEWER EXTRAS.

Judge Street Refuses to Continue the Injunction Pending Appeal.

In the matter of the injunction suit of A. M. Grant against City Treasurer Day, to prevent payment to the gravity sewer contractors of \$1,000 for extras, appropriated by the city council, a motion by the plaintiff's attorneys

was argued to continue the restraining order heretofore dissolved in force pending the appeal to the supreme court. Judge Street denied the motion and the restraining order is dissolved.

DAMAGE SUIT.

Father of Delirich Olson Sues the Union Pacific For \$1,500.

Axel Olsen yesterday filed suit in the third district court by his attorneys, C. M. Nielsen and Moyle, Zane & Costigan, against S. H. H. Clark, et al., receivers of the Union Pacific Railroad company, alleging that on August 24, 1895, his son, Delirich, aged 7 years, while crossing the track of the defendant company on Ninth North street, was run over by a train and his foot crushed so that it had to be amputated. Plaintiff alleges that in consequence thereof he was compelled to give constant attention and nursing to the boy, and that such attention will be necessary in the future, and that plaintiff has lost the services of the boy to his damage in the sum of \$1,500, for which judgment is prayed.

The boy was granted a judgment for \$1,500 in the United States district court a few days ago.

Short Rulings.

Maggie Ryan vs. James Ryan: motion to strike answer from files granted, with leave to restate within two weeks on proper showing.

Miffin Bailey et al. vs. Joseph P. Raabe et al.: judgment and decree for the plaintiffs for \$1,299.73.

Martha Ann Coombs vs. Utah Paint and Oil company: case put back on trial calendar.

Sarah Quayle vs. Claude B. Durst et al.: appeal dismissed.

Philip Neder vs. I. Cobb et al.: appeal dismissed.

John Dubel vs. Morris Sommer: motion to dismiss appeal argued and submitted.

E. C. Cahoon vs. Salt Lake county: demurrer withdrawn and twenty days to answer.

W. L. Douglas vs. George D. Alder et al.: restraining order dissolved.

Thomas Bolton vs. S. R. Parkinson: dismissed.

H. A. Heath vs. Salt Lake City: demurrer to amended answer overruled, and motion to strike out portion of answer denied.

John A. Hobbs vs. J. H. Hulse et al.: motion to dismiss appeal overruled.

Salt Lake Lithographing company vs. the Utah Mine and Smelting company et al.: motion to set aside judgment against receiver in favor of Horn Silver Mining company denied.

Probate Orders.

Estate of John Folks, deceased: hearing on final account and petition for distribution continued to May 23.

Estate of Herman Post, deceased: hearing on final account and petition for distribution set for June 6.

Estate of George Hogan, deceased: hearing on final account and petition for distribution set for June 6.

Estate of Clarence Harn, deceased: hearing on final account and petition for distribution set for June 9.

Estate of Maggie K. Jennings, deceased: order made confirming report of commissioners in partition.

Court Orders.

A. H. Barnett was granted a decree of divorce from William J. Barnett by default, on the grounds of desertion and failure to support.

Petit Juror W. H. Wilson was excused for the term.

The Morris bribery case will be resumed at 10 o'clock tomorrow morning.

G. B. N. G. U.

Members of B company, First Infantry, National Guard of Utah, are requested to meet on Wednesday evening, May 20, at 8 o'clock sharp, in the city and county building.

By order of Captain H. M. H. Lund, B. C. RASMUSSEN, First Sergeant.

In the Spring a young man's fancy lightly turns to thoughts of—DeWitt's Little Early Risers, for they always cleanse the liver, purify the blood, and invigorate the system. For sale by Nelden-Judson Drug Co.

THE NEW MANIFESTO.

Merely Denies a Legal Union of Church and State.

DUTY OF THE AUTHORITIES

SHOULD MAKE THE MEANING CLEAR TO THE PEOPLE.

A. T. Heist Gives His Views—Draws Encouragement From a News Editorial—Suggests the Adoption of Resolutions By All Political Conventions.

The general impression made by the new manifesto was that it makes a distinct denial that there has been any use of "church influence" in the past to direct the political action of the people.

It was further supposed and asserted that the document is a direct answer to, and a denial of, the declarations made by the re-convened Democratic convention of last fall.

It now appears that it is neither.

President Joseph F. Smith explains, both in public and in private in effect, the manifesto is a denial that there has been any union of church and state in Utah. "Therefore," he says, "the church and state need no divorce, having never been married." He then goes on to point out that no law on the statute books gives a preference for one church above another.

If this is all that is meant by the long preamble to the rule of discipline for church members in the manifesto, then no person is likely to raise any objection to that part of it.

We do not know that it has been claimed by any persons or parties that the church and the state have been in legal enactment ever made one in Utah. We do not know that any persons or parties have asserted that the laws of Utah discriminate in any way between members of different creeds.

But of one fact we are tolerably certain: There has been "church influence" used to secure, ostensibly, a "nearly equal" division of the people of Utah between the two parties, but really, it would seem, to secure and assure the permanent success of the party to which those leaders belong.

The question of the "influence" of the church, to secure the success of their party. It now appears that this was done under the plea of dividing the people "about equally" in politics.

It was this use of "church influence" by authorized or unauthorized individuals (we know not which) that was condemned by the proceedings of the Democratic re-convened convention. It was this use of "church influence" that was condemned by Democratic papers, by Democratic primaries and conventions and by Democratic speakers.

When, therefore, the new manifesto appeared, it did not occur to any human being, so far as we know, to suppose it was anything else than a denial of the question of the contentions of the Democratic party as voiced by the proceedings of the re-convened convention.

It is a relief and a pleasure to learn that the manifesto is merely a denial of a "legal union" of church and state—a musty and almost forgotten issue in our midst.

But do the public also understand it? Clearly, they do not; and it is a plain duty on the part of those who issued the manifesto to make clear its meaning on this important issue.

PRATTLER.

Mr. Heist's Views.

The evil effects of the manifesto, in so far as it may in practice result in putting both political parties under the domination of a few ecclesiastical leaders, is so apparent as to need little or no discussion. I therefore will discuss only the question of a preventive for the evil without denying to the church the right to make any rule of discipline it may see fit.

The church leaders are entitled, prima facie, to the presumption of sincerity in this matter, and if they are as desirous of carrying out the spirit of the

constitutional inhibition against a union of church and state as they appear to be, the solution is easy.

In the Deseret News of May 12, I find the following quoted with seeming approval from the Catholic Review: "Indeed, the Mormon leaders should go further and lay down the law that no clerical official in the Mormon church should be candid for political office. If that regulation were generally enforced, religion would be saved such scandals as last year stained the state of Ohio, when a clergyman in the legislature offered to sell his vote for a bribe."

From this I draw encouragement that the church organ will enforce my plan for a remedy of degraded office. My remedy is this: Let the political conventions adopt a resolution something like the following:

"Whereas, The dominant church of this state has adopted a rule of discipline for its members by which they say that every leading official of the church shall, before accepting any political position which would interfere with the proper and complete discharge of his ecclesiastical duties, apply to the proper authorities to learn from them whether he can, consistently with the church obligations, take upon himself the responsibility of the position."

"And, Whereas, This same church and its leaders express themselves opposed to a union of church and state."

"And, Whereas, We are likewise opposed to a union of church and state, and by this we mean to oppose as much the practical union by which a few ecclesiastical leaders will control the political action of church members in all political parties, as well as the legal and technical union."

"Now, therefore, be it Resolved, That while we recognize the right of every church organization to make any rule of discipline for its members, we do not submit to, yet we conceive it to be our right and our duty to so regulate the affairs of our party that no rule of church discipline shall have the effect of putting it under the control of any priesthood whatever."

"We believe that B. H. Roberts, when speaking upon this in the Salt Lake Standard of 1895, expressedly outlined our course in this matter when he said: 'If the church permits its high officials to enter politics at all, then those men ought to be absolutely free to follow their own discretion as to what their politics should be, and the extent to which they shall engage in the affairs of the government, as anything of this kind would render party loyalty impossible. I do not believe that Democratic church officials ought to be expected to go to Republican superior church officials for counsel in political action or vice versa.'"

"Such a requirement in our community would place the control of the respective parties under the church officials and would give political affairs entirely into their hands. I see no objection to a church official being a citizen, and in a lawful article, intended to be funny, says that the members of the local society will not be in it. This makes the boys here feel a little bit sore, as when it comes to snooting the Order folks cannot even shoot craps, to say nothing of hitting clay birds thrown from a trap."

Ogden is priding herself on the prizes it has offered. There are a pair of shoes and a roast of beef and a pair of overalls and a job lot of Fugi tea. This tea, by the way, received a mention at the hands of this paper a few days ago. It seems that an enterprising grocery firm up there offered a case of the same for prizes and it was divided into lots so that every third prize is Fugi tea. Jack May, in a josh, sent a telegram asking for a sample, saying Salt Lake would not attend without, which the Ogden people took to be in earnest, hence the story in the Standard.

The Standard concludes its write up with the following:

"The Ogden club has magnanimously agreed to let the Salt Lake muzzie loaders win the fifth prize in event No. 8, which is abner nit. That is the Dutch for nothing."

The Salt Lake boys say when the match is concluded the Ogden people will be wiping the abner nit from their faces.

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HERALD PRIZE CUPS.

First Boy and Girl Born in the State.

READY FOR PRESENTATION

MISS HEMINGWAY AND MASTER JENSEN THE WINNERS.

The Girl Was Born in This City at 8:04 a. m., on January 4th, and the Boy Was Born at Gunnison, Six Minutes Later.

Some months ago The Herald made an offer of two handsome gold-lined silver cups to the first boy and girl born in Utah after the issuance of the president's proclamation declaring it a state.

Candidates for these cups sprang up all over the territory, from Logan to St. George, and the contest was for a time close, but it soon developed that the prizes would go to little Sarah Vilate Hemingway of this city, and Master Grover James Jensen of Gunnison, if the time of their respective births, as reported, were duly authenticated.

The evidence was soon forthcoming, and The Herald now has the official certificates of the attending physicians and midwives, showing that Miss Hemingway saw the light on January 4, 1896, at 8:04 a. m., and that Master Jensen was born exactly six minutes later.

The cups have therefore been suitably engraved, and will at once be presented to the lucky youngsters with the compliments of The Herald.

In years to come, as these little ones grow up, they will become important personages in the great commonwealth of Utah, as the first boy and girl born in the state.

WESTERN EDITORS.

They Will Be Entertained at Denver This Year.

Herald readers will remember that the editors of the trans-Mississippi states, under the auspices of the Utah Press association, met in this city last fall, and that the event was nothing less than a grand affair, resulting in materially advertising Salt Lake city and the then prospective state of Utah.

We learn that preparations for holding the next meeting of the editors in Denver are already in progress. There is no doubt but that the Coloradans will outdo themselves in the entertainment of the western editors; at the same time, if the people of Denver endeavor to equal or surpass what was done in this city last year they will have to do some tall hustling. We congratulate Colorado on the part she is to play as hostess of the newspaper men of the western states and bespeak in advance a glorious time.

THAT OGDEN SHOOT.

Salt Lake Boys Will Get Back at the Junction City Crackers.

The Ogden Standard of Thursday has something about the coming gun club shoot, in which the members of the Salt Lake organization are to participate, and in a laudable article, intended to be funny, says that the members of the local society will not be in it. This makes the boys here feel a little bit sore, as when it comes to snooting the Order folks cannot even shoot craps, to say nothing of hitting clay birds thrown from a trap.

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Via Rio Grande Western Railway.

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